

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CARESSE M. VENTIERA

(b) County of Residence of First Listed Plaintiff SUFFOLK, NEW YORK
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

JAMES E. HOCKENBERRY, 1429 WALNUT STREET,
SUITE 300, PHILADELPHIA, PA 19103 (215)714-0744**DEFENDANTS**

CAMELBACK RESORT, LLC

County of Residence of First Listed Defendant MONROE, PA
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

UNKNOWN

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332 - DIVERSITY OF CITIZENSHIPBrief description of cause:
SLIP AND FALL/PREMISES LIABILITY**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 6, 2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ James E. Hockenberry

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

CARESSA M. VENTIERA
335 Myrtle Avenue
West Islip, NY 11795

Plaintiff,

V.

CMBK RESORT OPERATIONS, LLC
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

and

CMBK RESORT HOLDINGS, LLC
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

and

CAMELBACK RESORT, LLC
475 Camelback Road
Tannersville, PA 18372

And

CAMELBACK SKI RESORT
475 Camelback Road
Tannersville, PA 18372

and

CAMELBACK SKI CORPORATION
475 Camelback Road
Tannersville, PA 18372

and

DOCKET NO.:

<p>KSL CAMELBACK MANAGEMENT, LLC 193 Resort Drive Tannersville, PA 18372</p> <p>and</p> <p>EPT SKI PROPERTIES, INC. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808</p> <p>and</p> <p>CBH20 General Partners, LLC 301 Resort Drive Tannersville, PA 18372</p> <p>Defendants.</p>	
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CIVIL ACTION COMPLAINT

I. INTRODUCTION

1. This is a civil action arising from a slip-and-fall accident that occurred at Defendants' Camelback Ski Resort in Tannersville, Monroe County, Pennsylvania, on February 8, 2020. Caresse Ventiera, slipped on ice on a pedestrian walkway, falling, and causing her to suffer a comminuted distal radius fracture of her left wrist/arm.

II. PARTIES, JURISDICTION AND VENUE

2. Plaintiff, Caresse M. Ventiera, is an adult individual residing at 336 Myrtle Avenue, West Islip, New York.

3. Defendant CMBK Resort Operations, LLC, is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware.

4. Defendant CMBK Resort Holdings, LLC, is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware.

5. Defendant Camelback Resort, LLC, is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at 475 Camelback Road, Tannersville, Pennsylvania.

6. Defendant Camelback Ski Resort is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at 475 Camelback Road, Tannersville, Pennsylvania.

7. Defendant Camelback Ski Corporation is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at 475 Camelback Road, Tannersville, Pennsylvania.

8. Defendant KSL Camelback Management, LLC is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at 193 Resort Drive, Tannersville, Pennsylvania.

9. Defendant EPT Ski Properties, Inc. is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a

principal place of business at c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware.

10. Defendant CBH20 General Partners, LLC, is a business, company, entity, partnership, franchise, fictitious name, proprietorship or corporation existing and/or qualifying under the laws of the Commonwealth of Pennsylvania, with a registered office for the acceptance of service or a principal place of business at 301 Resort Drive, Tannersville, Pennsylvania.

11. This Court has jurisdiction pursuant to 28 U.S.C. §1332(a)(1) as Plaintiff is a citizen of the State of New York and defendants are citizens of Pennsylvania and/or Delaware. Thus, there is a complete diversity of citizenship between the Plaintiff and defendants.

12. Venue in the Eastern District of Pennsylvania because the defendants, or at least one of the defendants, is deemed to reside in the Eastern District of Pennsylvania because it/they have sufficient contacts with the Eastern District of Pennsylvania to subject it/them to personal jurisdiction in the Eastern District of Pennsylvania, should the same be a separate state.

13. Such contacts with the Eastern District of Pennsylvania includes, *inter alia*, advertising within the Eastern District of Pennsylvania, by way of example, on the Philadelphia CBS Local station.

III. FACTS

14. Defendants CMBK Resort Operations, LLC and/or CMBK Resort Holdings, LLC and/or Camelback Resort, LLC and/or Camelback Ski Resort and/or Camelback Ski Corporation and/or KSL Camelback Management, LLC and/or EPT Ski Properties, Inc. and/or CBH20 General Partners, LLC, hereafter collectively referred to as “Defendants,” as of February 8, 2020, jointly and/or severally owned, had dominion over, managed, controlled, leased, operated, or possessed property known as Camelback Ski Resort in Tannersville, Monroe County, Pennsylvania, upon which property on that date Plaintiff Caresse Ventiera, was a business invitee.

15. At all times material to this Complaint, each of the defendants were agents, servants, workmen, employees and/or representatives of each other and were acting within the course and scope of said employment and/or agency and/or was acting for a common purpose or on a joint venture.

16. At all times relevant and material to this Complaint, defendants did act through their agents, servants, workmen, employees and/or representatives, said individuals acting within the course and scope of their employment and/or agency.

17. At all times relevant hereto, one or more of the defendants had entered into a contract or agreement with each other and/or with other parties, the specific terms of which are unknown to plaintiff, under which there was an obligation on the part of the aforesaid defendants, jointly and/or severally, to repair, maintain, inspect, clean and otherwise be responsible for the aforesaid premises, including the paver pedestrian area outside of the lodge on the defendants' premises, so that same would be safe for use by invitees, including plaintiff Caresse Ventiera.

18. On or about February 8, 2020, plaintiff, Caresse Ventiera, was lawfully on defendants' premises, when, suddenly and without warning, she was caused to slip and fall due to a defective condition and/or conditions in the area of the paver pedestrian area outside of the lodge, on the defendants' premises.

19. At all times relevant hereto, defendants herein, jointly and/or severally, owed a duty to clean, maintain, inspect and otherwise be responsible for the aforesaid premises, to provide a safe and hazard free environment and otherwise be responsible for the aforesaid premises so that same would be safe for use by patrons, business invitees and members of the general public, including plaintiff.

20. Defendants herein, jointly and/or severally, knew and/or should have known of the said dangerous, insecure and therefore defective condition(s) and the likelihood that same

would cause injuries to patrons and invitees lawfully on the aforesaid premises in the absence of adequate safety measures.

21. On or about February 8, 2020, and for a long time prior thereto, defendants herein, jointly and/or severally, did allow the premises and its environs to be and remain in a dangerous, insecure and therefore defective conditions which thereby created an unreasonable hazard to persons lawfully on defendants' premises.

22. At all times material hereto, the area which plaintiff was walking on defendants' premises was under the exclusive dominion and control of Defendants herein, jointly and/or severally.

23. The circumstances under which plaintiff was injured were such that said injuries to plaintiff could not have occurred on said premises except by Defendants' negligence.

24. The aforesaid accident resulted solely from the negligence and carelessness of Defendants herein, jointly and/or severally, and in no manner whatsoever to any act or failure to act on the part of plaintiff.

25. As the direct and proximate result of this accident and the negligence of the defendants, detailed *infra*, plaintiff, Caresse Ventiera, has suffered serious and severe injuries which are or may be serious and permanent, *inter alia*:

- a. Comminuted intra-articular fracture of the distal radius;
- b. Injury to her nerves/nervous system;
- c. Swelling;
- d. The need for surgery;
- e. Great pain and suffering;
- f. The need for surgical hardware placement;
- g. Permanent injury to her left hand/wrist/arm;

- h. Permanent loss of use of her left hand;
- i. The need for future medical care, including therapy and/or surgery;
- j. Past medical expenses, including by way of liens;
- k. Future medical expenses;
- l. Inability to work/disability;
- m. Wage loss;
- n. Injuries to her musculoskeletal system.

26. As a further result of this accident, plaintiff, Caresse Ventiera, has been obligated to receive and undergo medical attention and care for her injuries, and to incur various expenses for said care, and she may be obligated to continue to expend such sums and to incur such expenses for an indefinite period of time in the future.

27. As a further result of this accident, plaintiff has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries she has suffered, and to incur various expenses for said treatment and services, and she may incur various reasonable and necessary future medical expenses from the injuries sustained, and defendants are liable for all of same.

28. As a further result of this accident, plaintiff, Caresse Ventiera, has or may suffer loss of her earnings and impairment of her earning capacity and power, and may continue to suffer such a loss for an indefinite time in the future.

29. As a further result of this accident, plaintiff, Caresse Ventiera, has been unable to attend to her daily chores, duties, and occupations, and may be unable to do so for an indefinite time in the future.

30. As a direct result of the accident, plaintiff, Caresse Ventiera, has and may continue to in the future incur other financial expenses or losses to which she may otherwise be entitled to recover.

31. As a further result of the accident, plaintiff, Caresse Ventiera, has suffered severe physical pain, aches, mental anguish, and humiliation, inconveniences, and loss of life's pleasures, and she may continue to suffer the same for an indefinite time in the future.

COUNT I- NEGLIGENCE

Caresse Ventiera vs. CMBK Resort Operations, LLC and/or CMBK Resort Holdings, LLC and/or Camelback Resort, LLC and/or Camelback Ski Resort and/or Camelback Ski Corporation and/or KSL Camelback Management, LLC and/or EPT Ski Properties, Inc. and/or CBH20 General Partners, LLC

32. Plaintiff, Caresse Ventiera, incorporates herein by reference paragraphs one through thirty-one, inclusive, as though same were set forth at length.

33. The negligence and carelessness of the Defendants, jointly and/or severally, consisted of the following:

- a. failing to inspect, correct or have corrected, repair or protect the premises from defective and/or hazardous conditions being created in the area used for patrons, invitees and/or the general public on defendants' premises, said conditions existing for a long time prior to the date of the accident;
- b. allowing defective conditions to exist which defendants knew or should have known created a dangerous hazard to patrons, invitees and/or the general public;

- c. allowing latent and hidden dangerous conditions to exist on defendants' premises;
- d. failure to properly and adequately maintain the premises, in particular, the aforesaid paver area outside the lodge area;
- e. failure to warn patrons, invitees and/or the general public of the dangerous, hazardous and unsafe conditions on the premises;
- f. failure to take reasonable precautions against the dangerous, hazardous and unsafe conditions of the premises;
- g. failure to provide barricades in the area of the defective or dangerous conditions to prohibit patrons, invitees and/or the general public from traversing in the aforesaid area of defendants' premises and/or to reduce the chance of injuries to such persons resulting from the defective or dangerous conditions of the premises, or in the alternative, improperly placing said barricades;
- h. failure to properly and adequately hire and/or instruct the agents, servants, workmen, employees and/or representatives, of defendants herein, as to safe and proper procedures for inspecting, maintaining, cleaning, correcting and repairing a

dangerous and defective conditions on defendants' premises, including the defective and/or dangerous conditions which caused plaintiff's injuries;

- i. failure to properly and adequately hire and/or instruct the agents, servants, workmen, employees and/or representatives, of defendants herein, as to safe and proper procedures regarding warning invitees such as plaintiff of dangerous and/or defective and/or hazardous conditions;
- j. failure to provide safe conditions for patrons, invitees and/or the general public on the premises;
- k. failure to act with due care and regard for the position and safety of others, in particular, plaintiff;
- l. failure to provide and maintain proper supervision of the premises;
- m. failure to provide and maintain proper safety precautions at the premises;
- n. failure to furnish a reasonable number and distribution of safety personnel and safety equipment at the premises;
- o. failure to respond in a timely manner to an insecure or dangerous conditions or situations at the premises; and,

p. such other negligent acts and/or failures to act as may
be discovered during the course of discovery in this
action.

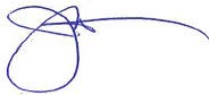
34. As a direct and proximate result of the foregoing negligence, plaintiff Caresse Ventiera suffered the injuries, losses, harm and/or damages set forth in paragraphs 25-31 above as if set forth at length.

WHEREFORE, plaintiff, Caresse Ventiera, demands damages of defendants herein, CMBK Resort Operations, LLC and/or CMBK Resort Holdings, LLC and/or Camelback Resort, LLC and/or Camelback Ski Resort and/or Camelback Ski Corporation and/or KSL Camelback Management, LLC and/or EPT Ski Properties, Inc. and/or CBH20 General Partners, LLC, jointly and/or severally, in a sum in excess of \$50,000.00, plus interest, costs, and attorney's fees.

Respectfully submitted,

LAW OFFICE OF LEON AUSSPRUNG, MD, LLC

By:



Robert P. Weiner, Esquire

I.D. No.: 22577

James E. Hockenberry, Esquire

I.D. No.: 91133

1429 Walnut Street

Suite 300

Philadelphia, PA. 19102

215-717-0744 (p)

888-800-5731 (f)

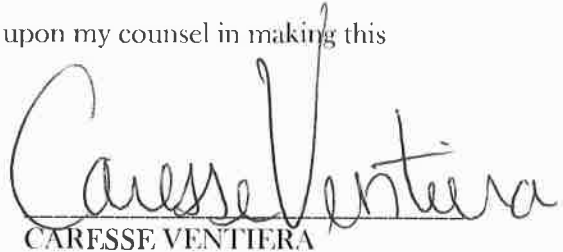
Email: RW@aussprunglaw.com

Email: JH@aussprunglaw.com

VERIFICATION

I, CARESSE VENTIERA, make this verification subject to the penalties of 18 Pa.C.S. §1904, relating to unsworn falsification to authorities. The attached Civil Action Complaint is based upon information which I have furnished to my counsel, and information which has been gathered by my counsel in preparation for the prosecution of this lawsuit. The language contained in the Civil Action Complaint is that of counsel and not of affiant. I have read or been read the Civil Action Complaint, and to the extent it is based upon information which I have given to my counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the contents of the Civil Action Complaint are that of counsel, I have relied upon my counsel in making this verification.

Dated: July 1, 2021


CARESSE VENTIERA